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Dear Frank:

You will recall that, in the course of my stay in Tokyo last month, I discussed briefly with you, Bob Adams, and Dudley Singer the possibility of including in the PCN Treaty a provision dealing with fair labor standards. At that time you had considerable doubt as to the advisability of introducing such a clause into the negotiations at this late stage, believing that, regardless of how the proposal were made, the Japanese would be suspicious of our intentions. Since I did not have any language for you to consider, you may wish to review the subject again with the following suggested formulation before you:

"The two Parties, sharing a common interest in the achievement and maintenance of fair labor standards related to productivity and in the improvement of wages and working conditions as productivity may permit, recognize that the existence of labor conditions in export industries below those warranted by the productivity of the particular industry and the economy at large create difficulties in international trade. Accordingly, each Party undertakes through appropriate and feasible policies to foster labor conditions tending to avoid such difficulties in trade between their respective territories; and the two Parties will on appropriate occasions consult concerning possible measures to this end."

I appreciate that this is new material which has not been included in other treaties the United States has negotiated. It is generally believed in the Department, as well as in Labor, however, that it would be advantageous to have such a provision in the treaty solely from the viewpoint of trying to help the Japanese. The Department has no desire to attempt in this treaty, either through a labor clause or any other provision, to interfere with Japanese domestic social

policy

Frank Waring, Esquire,
 Economic Counselor,
 American Embassy,
 Tokyo, Japan.

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policy and is motivated entirely by a desire to avoid possible obstacles to commerce between the United States and Japan.

Phil Sullivan suggests that you may wish to discuss this matter with Ambassador Murphy. If his reaction and yours are favorable, we will send you a formal communication along the lines of the attached draft airgram.

I do not wish to appear to be questioning your judgment in this matter in any way. Moreover, you are in a better position than we to judge the negotiability of such a proposal. We do think that a provision of this kind would be helpful, however, but wish to have the benefit of your considered judgment on the basis of the specific proposal quoted above.

Sincerely yours,

CTW

G. Thayer White
Acting Officer in Charge, Economic Affairs
Office of Northeast Asian Affairs

Enclosure:

Draft airgram.



CPW

Cleared with: PDS
FE - Mr. Sullivan

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Draft Airgram

TO: Amembassy, Tokyo

SUBJECT: FCN Treaty. Inclusion of Fair Labor Standards Clause.

For some time the Department, in common with other agencies of the U. S. Government, has been giving thought to ways and means of removing obstacles to the development of Japanese trade abroad. As the Embassy is aware, one great difficulty facing development of Japanese exports is the fact that various restrictive measures arise in importing countries as a consequence of the wide-spread view that Japanese labor is underpaid and that such restrictions are necessary in order to protect domestic labor against unfair Japanese competition. One step toward ameliorating this difficulty might be to include a fair labor standards provision in the FCN Treaty. Such a provision, of course, would have to be in general terms, and would be merely a preliminary step that might be followed by others later on. For example, for your information, there is now under consideration within the Government a project to propose the creation of a Joint U. S.-Japanese commission on foreign trade to survey Japanese-American trade relations, and to make recommendations to the two Governments within their prospective competence to further trade between the two countries and to promote proper understanding of various problems faced.

The Department has formulated in cooperation with the Department of Labor the following provision which it requests be considered at Tokyo for inclusion in the FCN Treaty:

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"The two Parties, sharing a common interest in the achievement and maintenance of fair labor standards related to productivity and in the improvement of wages and working conditions as productivity may permit, recognize that the existence of labor conditions in export industries below those warranted by the productivity of the particular industry and the economy at large create difficulties in international trade. Accordingly, each Party undertakes through appropriate and feasible policies to foster labor conditions tending to avoid such difficulties in trade between their respective territories; and the two Parties will on appropriate occasions consult concerning possible measures to this end."

The timing and manner of broaching this provision are left to the discretion of the Embassy. The Department appreciates that it is new material and has not been standard hitherto in treaties the U. S. has negotiated. The Department considers that it would be advantageous to have the provision in the treaty, but would wish the broaching of it to be handled in such a manner as not to interfere with the proper solution of any major issues which have arisen in connection with the negotiations of the rest of the treaty. It should be emphasized that the Department is suggesting this provision purely from the viewpoint of trying to help the Japanese. The Department has no

desire

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desire to attempt in this treaty to interfere in Japanese domestic social policy, and is motivated entirely by a desire to avoid possible obstacles to commerce between the U. S. and Japan. It would please the Department, indeed, should this provision appear to be proposed by the Japanese themselves.

The proposed labor standards provision properly belongs with international trade parts of the treaty, for it is related in its terms solely to the promotion of international trade. However, it does not fit in too well with any of the trade articles of the treaty. Hence, for the time being, it is proposed that it be placed in the Protocol although a more appropriate position may be found for it as the text of the treaty begins to crystallize; and the Embassy and Japanese Government should feel free to use their best judgment as to where it should be placed.

At one time consideration was given to making reference to the International Labor Organization in the proposed provision, but it has been decided not to do so. Many of the ILO Conventions have not come into force and very few of them have been ratified by the U. S. Government. Moreover the International Labor Organization has not dealt with some of the more significant areas in the field of labor standards, such as wages. Certain suitable objective tests have been formulated, however, as will appear in the proposed text of the provision. Reference may be had to Article 7 of the Havana Charter for an ILO.

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